

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

CARL ECHOLS,)	
)	
Petitioner,)	
)	
v.)	No. 2:20-cv-00141-JPH-MJD
)	
RICHARD BROWN,)	
)	
Respondent.)	

Order Dismissing Petition for Lack of Subject Matter Jurisdiction

I.

Petitioner Carl Echols' motion to proceed *in forma pauperis*, dkt. [2], is **granted**.

II.

Mr. Echols filed this 28 U.S.C. § 2254 petition challenging his 1997 convictions for murder, attempted murder, and resisting law enforcement. Mr. Echols previously brought a § 2254 habeas petition in this Court challenging the same convictions in Case No. 2:05-cv-244-RLY-WGH. That habeas action was dismissed with prejudice on April 21, 2006, based on the finding that Mr. Echols committed an unexcused procedural default. *Echols v. Hanks*, 2:05-cv-244-RLY-WGH, dkt. 22.

When there has already been a decision on the merits in a federal habeas action, to obtain another round of federal collateral review a petitioner requires permission from the Court of Appeals under 28 U.S.C. § 2244(b). *See Altman v. Benik*, 337 F.3d 764, 766 (7th Cir. 2003). This statute “creates a ‘gatekeeping’ mechanism for the consideration of second or successive [habeas] applications in the district court.” *Felker v. Turpin*, 518 U.S. 651, 657 (1996). Indeed, a district court does not have subject matter jurisdiction over a second or successive petition. *In re Page*,

170 F.3d 659, 661 (7th Cir. 1999). The “district court *must* dismiss a second or successive petition, without awaiting any response from the government, unless the court of appeals has given approval for the filing.” *Page*, 170 F.3d at 661.

There is no indication that Mr. Echols has obtained leave from the Seventh Circuit to file this successive petition. Accordingly, this action is **dismissed** for a lack of jurisdiction. Mr. Echols must seek authorization from the Seventh Circuit Court of Appeals before this Court may consider his petition. Final Judgment in accordance with this decision shall issue.

SO ORDERED.

Date: 3/16/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

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